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Elimination of racism, racial discrimination, xenophobia and related intolerance: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Report of the Chair of the Working Group of Experts on People of African Descent

Summary

The present report is submitted in accordance with General Assembly resolution 68/151, section II, paragraph 9 in which the Assembly requested the Chair of the Working Group of Experts on People of African Descent to make a report on its work available to the Assembly. The report covers activities undertaken during the period from 1 July 2013 to 30 June 2014.

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I. Introduction

1. The General Assembly, in section II, paragraph 9 of its resolution 68/151 on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, requested the Chair of the Working Group of Experts on People of African Descent to make a report on its work available to the Assembly, and in that regard invited the Chair of the Working Group to engage in an interactive dialogue with the Assembly under the agenda item "Elimination of racism, racial discrimination, xenophobia and related intolerance" at its sixty-ninth session.

2. The present report covers the time period from 1 July 2013 to 30 June 2014.

II. Mandate

3. The Working Group of Experts on People of African Descent was established on 25 April 2002 by the former Commission on Human Rights, in accordance with the request contained in paragraph 7 of the Durban Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001.

4. The mandate of the Working Group, as outlined in Commission on Human Rights resolution 2002/68, paragraph 8 and further expanded in Commission on Human Rights resolution 2003/30, paragraphs 24 and 25 is:

(a) To study the problems of racial discrimination faced by people of African descent living in the diaspora and to this end gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through holding public meetings with them;

(b) To propose measures to ensure full and effective access to the justice system by people of African descent;

(c) To submit recommendations on the design, implementation and enforcement of effective measures to eliminate racial profiling of people of African descent;

(d) To elaborate short-, medium- and long-term proposals for the elimination of racial discrimination against people of African descent, bearing in mind the need for close collaboration with international and development institutions and the specialized agencies of the United Nations system to promote the human rights of people of African descent, inter alia through:

(i) Improving the human rights situation of people of African descent by devoting special attention to their needs, inter alia through the preparation of specific programmes of action;

(ii) Designing special projects, in collaboration with people of African descent, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between these populations and experts in these areas;

(iii) Developing programmes intended for people of African descent allocating additional investments to health systems, education, housing, electricity, drinking water and environmental control measures and promoting equal opportunities in employment, as well as other affirmative or positive action initiatives, within the human rights framework;

(e) To make proposals on the elimination of racial discrimination against Africans and people of African descent in all parts of the world;

(f) To address all the issues concerning the well-being of Africans and people of African descent contained in the Durban Declaration and Programme of Action.

5. In 2008, the Working Group's mandate was extended for a further three years by Human Rights Council resolution 9/14. In 2011, the Human Rights Council, in its resolution 18/28, extended the mandate of the Working Group for an additional period of three years in accordance with resolution 9/14.

6. In accordance with its methods of work adopted at its twelfth session, the Working Group:

(a) Meets for two sessions of five working days each, in closed and public meetings, every year. The public sessions are organized on a thematic basis and the closed sessions are dedicated to consultations and internal matters related to its mandate;

(b) Undertakes two country visits a year and reports to the Human Rights Council on its findings and recommendations;

(c) Submits an annual report to the Human Rights Council on all its activities;

(d) Processes allegations that fall within the scope of its mandate under the communication procedure.

7. The Working Group comprises five independent experts serving in their personal capacities. The five mandate-holders serving during the time period covered by the present report were: Chair-Rapporteur Ms. Mireille Fanon Mendes-France (France), Ms. Monorama Biswas (Bangladesh), Ms. Mirjana Najcevska (the former Yugoslav Republic of Macedonia), Ms. Maya Sahli (Algeria) and Ms. Verene Shepherd (Jamaica). In 2014, three members of the Working Group will retire and new mandate-holders will be appointed by the Human Rights Council from the Africa Group, Eastern European Group and Asia-Pacific Group.

III. Activities of the Working Group of Experts on People of African Descent (July 2013 to June 2014)

A. Annual meetings

Thirteenth session (18 to 22 November 2013)

8. The thirteenth session was a closed meeting in which the Working Group considered such internal matters as future work, country visits and communications and held consultations with various stakeholders, including Governments, regional

groups and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Fourteenth session (31 March to 4 April 2014)

9. Discussions during the fourteenth session focused on the theme "People of African descent: access to justice". The Working Group emphasized the importance of access to justice and noted that despite guarantees in international and national law, the prevalence of racism, racial discrimination, xenophobia and related intolerance uniquely affected persons of African descent, to the point that many of them were still unable to obtain remedies for wrongful acts through their domestic institutions.

10. It was noted that structural discrimination occurred at all stages and levels of the administration of justice, including in legislation, law enforcement, courts and tribunals. One of the most important challenges that people of African descent faced was discriminatory treatment by the very institutions that were supposed to administer justice.

11. The Working Group underscored that both judicial and law enforcement bodies, which should be primary forces in opposing and preventing racism, failed to uphold justice and equality, and instead mirrored the prejudices of the society they served. In some cases, even if the law was not discriminatory, people of African descent were denied the right to a fair trial, which put them at an increased risk of harsh punishments, including, in some countries, the death penalty.

12. The Working Group expressed its concern about the prevalence of impunity and the lack of accountability in addressing discrimination against people of African descent in public and private spheres under the guise of freedom of expression. It recognized that the failure to provide appropriate education and training for young people of African descent often resulted in aimlessness and unemployment and left them vulnerable to social and police profiling, consequently resulting in their overrepresentation in the criminal justice system.

13. It urged States to adopt national action plans against racial discrimination, which should include special measures, based on disaggregated data, as appropriate, to address structural discrimination against people of African descent, taking into account general recommendation No. 32 (2009) of the Committee on the Elimination of Racial Discrimination. The Working Group also reiterated its recommendation that its draft programme of action be the basis for the practical activities to be developed at the national, regional and international levels during the International Decade for People of African Descent.

14. A full account of the session and the recommendations made by the Working Group on access to justice is contained in the annual report of the Working Group submitted to the Human Rights Council for its twenty-seventh session (A/HRC/27/68).

B. Country visits

Brazil (4 to 14 December 2013)

15. The Working Group undertook an official country visit to Brazil from 3 to 13 December 2013, during which it met with representatives of the Government at the federal, state and municipal levels and engaged with people of African descent from Brasilia, Pernambuco, Bahia, Recife, São Paulo and Rio de Janeiro.

16. The Working Group observed that over the past 10 years, Brazil had shown the political will to overcome racism and address issues of racial equality faced by Afro-Brazilians. It commended the initiatives taken to implement the rights enshrined in the Constitution relating to non-discrimination and equality for Afro-Brazilians, such as legislation, public policies for racial equality and, in particular, affirmative action. That included: (a) the Statute on Racial Equality, adopted in 2010; (b) Act 10,639/2003 on teaching African and Afro-Brazilian history and culture in educational institutions; (c) Decree 4,887/2003 and subsequent decrees recognizing and defining the process for land titles for *Quilombola* communities; (d) the 2012 Supreme Court ruling on the constitutionality of racial quotas for accessing higher education; and (e) the discussions in the National Congress on establishing quotas for public posts in order to redress historic inequalities based on the slave trade, enslavement and colonialism that had prevented Afro-Brazilians from accessing such spaces.

17. The Working Group found that despite Government commitment and initiatives in the area of law and policy, the dismantling of racial discrimination remained slow. Afro-Brazilians constituted more than half of the population, yet they were underrepresented and invisible in the major power structures, the media and the private sector. Institutional racism, discrimination and xenophobia continued to permeate the security and justice systems at all levels. That impeded equal access to justice for people of African descent when they were victims of violations. It manifested in racial profiling, disproportionate numbers of arrests and overrepresentation in the prison population. The Working Group expressed concern about alleged violations of human rights perpetuated by security forces, in particular the military and civil police, against young black people, often with impunity. Afro-Brazilians benefited proportionately less from educational and health-care facilities, the administration of justice, public and private investment, basic infrastructure and other services. The Working Group also expressed concern about the situation of homeless and landless people as well as insufficient housing policies and lack of housing, which negatively affected Afro-Brazilians, in particular in *favelas* and *quilombos*. The Working Group raised concerns about the multiple forms of discrimination that affected women and girls of African descent as well as lesbian, gay, bisexual and transgender individuals, which manifested in inequalities in access to employment in both the public and private sectors and in health conditions, including high rates of maternal mortality. It also voiced concern about the racism, persecution and violations of cultural rights and the right to religious freedom suffered by the religious communities of African origin, such as *Candomblé* and *Umbanda*.

18. The Working Group underlined that the effective implementation of laws and public policies protecting racial equality were essential to bring about real change and a positive impact for Afro-Brazilians. It emphasized that the fight against racism

should involve all of Brazilian society and that sensitization, intercultural dialogue and education were essential to deconstruct the ideology of racial hierarchies. The Working Group would submit a report containing its findings and recommendations to the twenty-seventh session of the Human Rights Council, to be held in September 2014 (to be issued as document A/HRC/68/27/Add.1).

Netherlands (26 June to 4 July 2014)

19. During its official country visit to the Netherlands from 26 June to 4 July, the Working Group visited Willemstad (Curacao), Amsterdam, The Hague, Rotterdam and Middleburg.

20. The Working Group will present a report containing its findings and recommendations to the Human Rights Council in September 2015. At the end of its mission to the Netherlands, on 4 July 2014, the Working Group delivered a statement to the press.[1]

Sweden (upcoming visit)

21. The Working Group has requested an invitation to visit Sweden in 2014. The Government has replied positively and dates are under discussion for an official country visit to Sweden in late 2014 or early 2015.

C. Communications

22. During the reporting period, the Working Group sent allegation letters under its communication procedure to the Dominican Republic, the Netherlands and the United States of America regarding issues that fall under its mandate. Media statements were also released in that regard.

23. On 20 June 2014, a media statement was released following the adoption of Law 169-14 of 23 May establishing a special system for people born in the Dominican Republic and registered irregularly in the Dominican Civil Registry and on naturalization. In the statement, the Working Group called upon the Government of the Dominican Republic to adopt the necessary legal measures to restore Dominican citizenship for all those born in the country, but not registered at birth. The Working Group stressed that such a step would effectively reinforce the fight against discrimination and social exclusion faced mostly by the people of African descent in the country.

24. On 11 December 2013, an allegation letter was sent to the Dominican Republic regarding the possible withdrawal of citizenship of a large number of Dominicans of Haitian descent following the issuance of a Constitutional Court judgement in violation of the right to nationality. According to information received, judgement TC/0168/13 of the Constitutional Court of the Dominican Republic, of 23 September 2013, could have a retroactive effect on the citizenship of a large number of Dominicans of Haitian descent. A related communication had previously been sent on 11 November 2013 (see A/HRC/25/74, case No. DOM 3/2013).

[1] Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14840&LangID=E.

25. On 21 November 2013, the Working Group and the Special Rapporteur in the field of cultural rights, the Independent Expert on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance released a joint media statement regarding allegations that the portrayal of the servant of Saint Nicholas, *Zwarte Piet* (Black Pete), in the Saint Nicholas festival celebrated each year in the Netherlands on 5 December perpetuated a negative stereotype of Africans and people of African descent. They called upon the Government of the Netherlands to take the lead in facilitating the growing national debate, in order to promote understanding, mutual respect and intercultural dialogue.

26. In its reply, the Government acknowledged that some Dutch people found the tradition offensive and that complaints relating to *Zwarte Piet* had sharply increased. It noted that national mechanisms allowed individuals to complain about cases of discrimination.

27. The joint media statement followed the joint communication sent in January 2013 by the Working Group, the Special Rapporteur in the field of cultural rights, the Independent Expert on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Government of the Netherlands regarding the Dutch celebration of Black Pete. On 29 August 2013, the Working Group sent a joint allegation letter with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the United States regarding allegations related to undue delays in the case concerning the death of Trayvon Martin and the alleged discriminatory impact of laws on African Americans. According to the information received, the Criminal Section of the Civil Rights Division of the United States Department of Justice, the United States Attorney's Office for the Middle District of Florida and the Federal Bureau of Investigation continue to evaluate the evidence generated during the federal investigation, as well as the evidence and testimony from the state trial concerning the death of Trayvon Martin in February 2012. The Working Group and the Special Rapporteur appealed to the Government to finalize without undue delay the ongoing review, along with the delivery of justice and appropriate reparations. They appealed to the Government to examine the laws that could have a discriminatory impact on African Americans and to ensure that such laws were brought into full compliance with the country's international legal obligations and relevant international standards.

28. Communications sent by the Working Group and replies received are included in the joint report by special procedures mandate-holders on their communications, submitted to each regular session of the Human Rights Council (see A/HRC/26/21).

D. International Decade for People of African Descent

29. On 23 December 2013, the General Assembly, by its resolution 68/237, proclaimed the International Decade for People of African Descent starting on 1 January 2015 and ending on 31 December 2024, with the theme "People of African descent: recognition, justice and development".

30. The Working Group welcomes the proclamation of the International Decade for People of African Descent as an extremely important opportunity for focused attention on the promotion and protection of the rights of people of African descent.

31. Despite the diversity of situations and experiences of people of African descent,[2] there are several common human rights concerns that need to be addressed. These include racism and structural and institutional discrimination, which are evident in the marginalization and inequality faced by people of African descent. This is confirmed in indicators of poverty, poor living conditions, low levels of political participation, barriers in access to quality education and labour markets, overrepresentation in prison populations, high rates of imprisonment, discrimination in access to justice and limited social recognition of the ethnic and cultural diversity of people of African descent. The effects of multiple forms of discrimination on women, children, young people, migrants and refugees of African descent as well as other particularly vulnerable groups is also noted. Furthermore, the invisibility of people of African descent through lack of statistical data and limited recognition of histories, heritage and contribution to development is a concern.

32. The Working Group believes that the Decade for People of African Descent will contribute to achieving equality and non-discrimination and strengthening the rule of law and democracy. Further efforts are needed by States to protect people of African descent from racial discrimination and to ensure their equal enjoyment of all human rights. As such, the Working Group calls upon all relevant actors to work together at the national, regional and international levels to make the Decade effective.

Draft programme of action for the Decade

33. In accordance with General Assembly resolution 66/144, the Working Group elaborated a draft programme of action for the Decade for People of African Descent and proposed a theme for the Decade (see A/HRC/21/60/Add.2). The report on its eleventh session (A/HRC/21/60), the main focus of which was the draft programme of action, was adopted by the Human Rights Council (see resolution 21/33 of 28 September 2012) and transmitted to the General Assembly.

34. The General Assembly, in its resolution 68/237, noted with appreciation the work undertaken by the Working Group in producing a draft programme of action that was comprehensive and covered a wide range of areas that could serve as a broad framework for the International Decade for People of African Descent.

35. The draft programme of action proposed by the Working Group is firmly anchored in the Durban Declaration and Programme of Action, the outcome document of the Durban Review Conference, the political declaration of the high-level meeting of the General Assembly to commemorate the tenth anniversary of the Durban Declaration and Programme of Action (General Assembly resolution 66/3) and the International Convention on the Elimination of All Forms of Racial Discrimination. It is based on contributions received from Member States and other stakeholders, as well as comments made during the eleventh session of the Working Group.

36. In its report on its eleventh session, the Working Group gave an overview of the current human rights situation and the challenges faced by people of African descent, strengthening the rationale for the Decade. It proposed "recognition, justice and development" as a theme for the Decade. "Recognition" refers to the

[2] The Working Group defines people of African descent as those referred to as such in the Durban Declaration and Programme of Action and those who self-identify as being of African descent.

recognition of people of African descent as a distinct group, which is essential to increasing their visibility and requires greater collection of data to assess their situation as well as respect for their culture, identity, history and heritage. "Justice" recognizes that people of African descent have historically been and continue to be victims of violations of their fundamental rights and requires the full and effective implementation of relevant human rights instruments, combating widespread impunity for racism and racial discrimination and ensuring equal access to justice and equal protection under the law at all stages of law enforcement. Justice also relates to reparations for enslavement and the transatlantic slave trade, which should be in line with the Durban Declaration and Programme of Action. "Development" is considered in two ways: first, in terms of the role that people of African descent have played historically and contemporarily in global development; and second, in terms of the need for a human rights-based approach to all development activities. The draft programme of action states that specific attention must be paid to people of African descent in initiatives to realize the Millennium Development Goals and post-2015 international and national development objectives.

37. The draft programme of action identifies priority areas and specific recommendations, including in the areas of education and awareness-raising around the history and experiences of people of African descent and their contributions to global development; the participation and inclusion of people of African descent in all areas of society; discrimination in the administration of justice; the adoption of special measures; the promotion of the right to development and measures against poverty; access to quality education, employment, housing and health care; and addressing the intersectionality of multiple forms of discrimination.

38. Owing to the special and unique nature of discrimination often faced by people of African descent, in particular in relation to the legacies of colonialism, enslavement and the transatlantic slave trade, the Working Group deems it appropriate to make a careful distinction between their situation and that of other groups who also face racial and other forms of discrimination. It also sees the need to construct and delineate specific juridical categories that make it possible to address their needs adequately and overcome the obstacles they face. Therefore, in line with a recommendation by the Committee on the Elimination of Racial Discrimination, the Working Group recommended the elaboration of a draft United Nations declaration on the promotion of and full respect for the human rights of people of African descent for approval by the Human Rights Council and the establishment of a permanent forum for people of African descent.

39. The Working Group called upon international human rights treaty monitoring bodies and thematic and country-specific special procedures of the Human Rights Council, where relevant, to systematically monitor the human rights situations of people of African descent and requested disaggregated information on this group during reporting, periodic sessions and country visits.

40. The Working Group encouraged OHCHR to continue its fellowship programme for people of African descent during the Decade as well as its work on the development of a database containing good practices that have a positive impact on addressing racial discrimination faced by people of African descent. It also invited States to share experiences, learning and practices to improve and systematize policies and programmes.

41. Lastly, the Working Group encouraged the media to represent the diversity of society and play a role in fighting racism, racial discrimination, xenophobia and related intolerance faced by people of African descent.

Collaboration with the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action

42. The programme of work of the twelfth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (7 to 17 April 2014) was dedicated to elaborating a programme of activities for the implementation of the International Decade for People of African Descent, drawing from the existing draft programme of action for the Decade as elaborated by the Working Group of Experts on People of African Descent and the report of the Secretary-General on how to make the International Decade for People of African Descent effective (A/67/879). The Chair of the Working Group of Experts on People of African Descent participated in the twelfth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action to introduce the Working Group's draft programme of action and follow up on the process to develop a programme of activities for the Decade.

Partnership with the United Nations Library at Geneva

43. In partnership with the Working Group and to support the proposal for the International Decade for People of African Descent, the United Nations Library at Geneva organized a special exhibition entitled "People of African descent: recognition, justice and development. A journey through the United Nations Library at Geneva collection". The exhibition ran from August 2013 to May 2014.

44. The Working Group also organized a talk programme in collaboration with OHCHR and the United Nations Library at Geneva. The talk programme was attended by over 80 representatives of Member States, non-governmental organizations, United Nations officials and media. The Chair, Ms. Verene Shepherd, delivered a lecture entitled "Reparation and the right to development: The case of the Caribbean Community (CARICOM)". Ms. Catherine Fiankan-Bokonga, Vice-President of the Association of Foreign Press in Switzerland and Lichtenstein, presented on the role of the media in promoting access to justice for people of African descent.

45. The United Nations Library at Geneva also launched an online resource guide on people of African descent [3] The guide provides links to the most relevant United Nations documents (resolutions, reports, declarations and treaties) on people of African descent. It also highlights the library's collections on the topic — both print and online resources (books, articles, journals and databases). Key websites have also been selected by United Nations Office at Geneva librarians to keep up-to-date on this subject.

[3] Available from http://libraryresources.unog.ch/africandescent.

Presentation to the Third Committee and side event during the sixty-eighth session of the General Assembly in New York

46. On 4 November 2013, the Chair of the Working Group reported on the status of the Working Group's work and on the International Decade to the Third Committee of the General Assembly. The presentation focused on the rationale for the Decade, including the need to pay more serious attention to the implementation of the Durban Declaration and Programme of Action and to build on the gains of the International Year for People of African Descent. In addition to the interactive dialogue with the Third Committee, a side event was held, which allowed for more detailed discussion on the Decade and the work of the Working Group.

Latin American and Caribbean regional meeting

47. In March 2014, the Chair of the Working Group participated in the Latin American and Caribbean regional meeting on the International Decade for People of African Descent. Representatives of Argentina, Barbados, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela (Bolivarian Republic of) met in Brasilia on 20 and 21 March 2014, to discuss proposals for the International Decade for People of African Descent established by the United Nations, from 2015 onwards, as well as by the Community of Latin American and Caribbean States, from 2014 onwards.

48. Invited by the Brazilian Special Secretariat for Policies on the Promotion of Racial Equality, with the support of the Ministry of Foreign Affairs of Brazil, the participants considered a common position of the Latin American and Caribbean countries in negotiations to be held in the United Nations, with a view to preparing a programme of action for the International Decade for People of African Descent; developed proposals for the Decade for Latin American and Caribbean People of African Descent established by the Community of Latin American and Caribbean States; and recommended international, regional and national strategies to promote the inclusion of people of African descent and overcome racism, racial discrimination, xenophobia and related intolerance.

49. The participants committed to support the draft programme of action for the International Decade for People of African Descent elaborated by the Working Group of Experts on People of African Descent, referred to in Human Rights Council document A/HRC/21/60/Add.2, including, among others, the proposal to create a United Nations forum for people of African descent and to draft a declaration on the promotion of and full respect for their human rights.

50. They recognized that despite the progress in several Latin American and Caribbean countries in promoting equality and non-discrimination and the rights of people of African descent, there still remained great challenges in the fight against exclusion and marginalization on ethnic and racial grounds. They welcomed the opening for signature of the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance to representatives of States parties to the Convention and encouraged countries to continue the process of signature and ratification.

51. Taking into account the adoption of the Decade for Latin American and Caribbean People of African Descent by the Community of Latin American and Caribbean States, they committed to expand and enhance regional coordination and cooperation in combating racism and promoting racial equality within the framework of the Community of Latin American and Caribbean States as well as in other regional forums, such as the Union of South American Nations (UNASUR) and the Southern Common Market (MERCOSUR). Participants committed to support the implementation of the working group established by the Community of Latin American and Caribbean States to develop the plan of action for the International Decade for People of African Descent, and to present the results and proposals of the regional meeting to the presidency and the troika of the Community and to the meeting of Ministries of Foreign Affairs.

Letter to the President of the General Assembly

52. The Chair of the Working Group sent a letter to the President of the General Assembly, John W. Ashe, on 12 June 2014 regarding ongoing consultations with States members of the General Assembly and other stakeholders, to elaborate a programme for the implementation of the International Decade for People of African Descent.

53. The Working Group expressed its interest in the work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on developing the draft programme for the International Decade pursuant to General Assembly resolution 68/237. The Working Group noted its appreciation for the advancements made in the deliberations, while also aware that the Intergovernmental Working Group had not been able to reach consensus on some important issues. It emphasized that the Decade provided an excellent opportunity to address the root causes of racism, racial discrimination, xenophobia and related intolerance and reiterated that political will was the only way to achieve the eradication of that evil scourge, which threatened all levels of reconciliation, peace and cooperation among peoples. The Working Group encouraged the General Assembly to adopt a strong, comprehensive and action-oriented document that would inform and guide the International Decade. The Working Group confirmed its commitment to contribute to the overall success of the International Decade and reiterated that it stood ready to assist the Assembly and the United Nations High Commissioner for Human Rights, as coordinator of the Decade, in the realization of those objectives.

E. Other activities

54. In 2013, the Working Group participated in two expert consultations in the context of the post-2015 development agenda: Vienna+20: Advancing the protection of human rights achievements, challenges and perspectives 20 years after the World Conference (June 2013) and an expert meeting organized by OHCHR on human rights and the financial crisis: promoting a rights-based approach to financial regulation and economic recovery (July 2013). In those consultations, the Working Group underlined that people of African descent were numbered among the most vulnerable when it came to poverty and the denial of their rights. For centuries, people of African descent had been victims of racism, racial discrimination and enslavement, and justice must be included explicitly in the post-2015 development

framework. The Durban Declaration and Programme of Action established a clear link between underdevelopment and the colonialism that was the root of much of the injustice that currently existed in many parts of the developing world. The Working Group encouraged participants to advocate for the implementation of the recommendations of the Durban Declaration and Programme of Action as part of the post-2015 agenda. The Durban Declaration and Programme of Action formulated specific recommendations to combat discrimination, urging financial and development institutions and the operational programmes and specialized agencies of the United Nations to assign particular priority, and allocate sufficient funding, to improving the situation of Africans and people of African descent. Among the measures recommended to alleviate the plight of victims of African descent who continued to suffer the consequences of the transatlantic trade in captured Africans was that of reparation. The Durban Declaration and Programme of Action also outlined economic measures to effect change and solve socioeconomic problems, including harnessing the power of globalization for the benefit of developing countries as a means of mitigating the unevenly shared benefits that accompanied globalization. That could be achieved through, inter alia, strengthening and enhancing international cooperation to increase equality of opportunities for trade, economic growth and sustainable development. Increased educational opportunity and development and faithful implementation and enactment of laws and political, social and economic policies were important for mitigating the socioeconomic problems faced by people of African descent.

55. In 2014, OHCHR released a brochure on the Working Group's mandate and methods of work for public information and wide dissemination to raise awareness about the Working Group and the issues it addresses.

IV. Conclusions and recommendations

56. **In conclusion, the Working Group welcomes the proclamation of the International Decade for People of African Descent starting on 1 January 2015 and ending on 31 December 2024, with the theme "People of African descent: recognition, justice and development" and stands ready to provide any substantive assistance the General Assembly may require during the Decade.**

57. **The Working Group encourages the General Assembly to adopt a strong, comprehensive and action-oriented document that will inform and guide the International Decade. It recommends that Member States use, to the extent possible, its proposed programme of action for the Decade, which contains practical activities to be developed at the national, regional and international levels. In particular, the programme of action should include the establishment of a permanent forum on people of African descent and the drafting of a United Nations declaration on the promotion of and full respect for the human rights of people of African descent, which will serve as a legal framework for the promotion and protection of the rights of people of African descent.**

58. **In accordance with the themes of the Decade, the Working Group recalls some of the recommendations contained in its annual reports to the Human Rights Council, in 2014 (A/HRC/27/68) and 2013 (A/HRC/24/52) respectively, on equal access to justice and recognition through education, cultural rights**

and data collection. The Working Group calls upon States to take the necessary action and implement its recommendations:

Equal access to justice

59. The principles of restorative justice should be applied in addressing access to justice for people of African descent.

60. Young people of African descent should benefit, including, when appropriate, through the provision of special measures, from access to quality education and appropriate professional orientation in order to have access to positions in the judiciary and administrative institutions at the highest levels.

61. States should prioritize prevention and the institutionalization of care in order to ensure that institutionalization of young people is a last resort.

62. States should recognize the intersectional nature of discrimination on the basis of gender, religion, ethnicity and other forms, keeping in mind that perpetrators of multiple forms of discrimination are not always cognizant of the fact that they are racially discriminating.

63. Appropriate education and training for young people of African descent should be provided in order to prevent unemployment, social stigmatization, police profiling, and brutality.

64. Quality, free legal aid should be offered for women of African descent who are in need, so that access to justice is available to everyone. Information about legal services and legal centres should be easily available and widely distributed, especially among groups facing multiple forms of discrimination, such as women of African descent. Regular training and education about their legal rights and available services should be provided to people of African descent.

65. Guidelines should be adopted for the prevention, recording, investigation and prosecution of racist or xenophobic incidents. Guidelines should guarantee that people of African descent who are victims of acts of racism, especially women of African descent as victims of multiple forms of discrimination, receive proper treatment in police stations, so that complaints are recorded immediately, investigations are pursued without delay and in an effective, independent and impartial manner, and files relating to racist or xenophobic incidents are retained and incorporated into databases.

66. People of African descent should be able to effectively seek protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination and to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

67. Judicial remedies in cases of racial discrimination should be easily accessible, prompt, impartial, affordable and geographically accessible. Law enforcement and judicial services shall have an adequate and accessible presence in the neighbourhoods, regions, collective facilities, camps or centres where groups of people of African descent reside, so that their complaints can be expeditiously received. Accessible and youth-friendly reporting systems and services must be in place.

68. People of African descent should enjoy all the guarantees of a fair trial and equality before the law, as enshrined in the relevant international human rights instruments and, specifically, the right to presumption of innocence, the right to assistance of counsel and to an interpreter, the right to an independent and impartial tribunal and guarantees of fair punishment and the enjoyment of all the rights to which prisoners are entitled under the relevant international norms.

69. Acts of racial discrimination should be prosecuted and punished and the victims fully compensated. The obligation to prosecute and punish should cover all material or intellectual perpetrators of the violation. Cases of racial discrimination must receive effective, proportionate and dissuasive sanctions and remedies both to reduce impunity and to ensure that the victims are reinstated to the dignity of which they were deprived.

70. Programmes should be in place to provide reparatory justice for people of African descent as victims of racial discrimination and historical injustices, including full recognition of wrongs committed.

71. Measures should be adopted to prevent questioning, arrests and searches that are in reality based solely on the physical appearance of a person, that person's colour, features, membership of a racial or ethnic group, or any profiling that exposes him or her to greater suspicion.

72. The administration of justice and the criminal justice system shall be subjected to permanent monitoring and adequate review in order to better gauge the existence and extent of racial discrimination. The judicial system shall adopt special measures to recruit and promote persons of African descent.

73. The criminalization of race should be addressed, taking measures to eliminate the overrepresentation of young people of African descent who are subject to the criminal justice system, as well as double standards in sentencing. The racial aspects of violence and imprisonment shall be recognized.

74. Potential discriminatory effects of certain domestic legislation should be eliminated, in particular with regard to legislation on terrorism, immigration and nationality, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or members of certain communities, including people of African descent, and in any case, respecting the principle of proportionality in its application.

75. Measures should be adopted to eliminate sociocultural ideologies inherited from the enslavement period that perpetuate racism and racial discrimination against people of African descent and their continued invisibility at all levels of society. Programmes shall be established to preserve knowledge on the culture and history of people of African descent in museums and other forums for future generations, and efforts shall be made to encourage and support the publication and distribution of books and other print materials, as well as the broadcasting of television and radio programmes about their history and cultures. States and civil society shall work with media and communications companies to promote more positive and inclusive images and representations of people of African descent to increase their visibility within society and challenge negative stereotypes and resultant discrimination.

76. A greater knowledge of and respect for the heritage and culture of people of African descent should be adopted, in particular for children and young people, through intercultural education and dialogue, awareness-raising and activities designed to protect and promote African and African-descent culture in its various manifestations. Specific plans must be in place for the ethnic recognition and visibility of people of African descent. Measures shall be adopted to preserve, protect and restore traditional knowledge and the intangible patrimony and spiritual memory of sites and places of the slave trade and slave resistance.

77. The rights of children and young people of African descent need to be specifically protected with regard to their identity, culture and language, in particular by promoting culturally and linguistically sensitive education policies and programmes. Actions shall be adopted to combat the indirect discrimination faced by children in education systems by removing the negative stereotypes and imagery often used in teaching materials, ensuring the inclusion of the histories and cultures of people of African descent, including the transatlantic slave trade in curriculums, and ensuring the cultural or linguistic relevance of teaching for children of African descent. Formal education at the early childhood, primary, secondary, post-secondary and adult education levels must incorporate knowledge about the history of transatlantic enslavement and the role of people of African descent in global development, and the di[illegible]sity and richness of civilizations and cultures that constitute the common heritage of humankind. A comprehensive curriculum reform shall also tackle all forms of stereotypes.

78. Good practices of other countries and regions that have been able to address the negative heritage of enslavement and to build inclusive, multicultural and multi-ethnic societies shall be shared and exchanged.

79. The Working Group urges States to adopt national action plans against racial discrimination that include special measures, based on disaggregated data, as appropriate, to address structural discrimination against people of African descent, taking into account general recommendation No. 32 (2009) adopted by the Committee on the Elimination of Racial Discrimination.

Recognition through education, cultural rights and data collection

80. States should fully protect the right of people of African descent to education, and must go beyond issues of physical or economic accessibility, to focus on the ultimate goal of equal access to quality education at all levels and equal achievement outcomes.

81. Every person is entitled to accessible, free and high-quality primary-level education. States should take reasonable legislative and other measures to achieve the progressive realization of this right by people of African descent with respect to secondary education and for higher education on the basis of capacity.

82. States should also:

(a) Ensure accessible and available education, in particular in areas where people of African descent live, including in rural and marginalized communities, paying attention to improving the quality of public education;

(b) Take measures to ensure that students of African descent are protected from direct or indirect discrimination, stigmatization, symbolic and physical violence, and racist bullying. The education system should ensure that all students learn in an environment free from racist and hostile attitudes of teachers and peers, and are protected therefrom. Negative stereotypes and imagery in teaching materials should be removed;

(c) Institute a compulsory human rights teacher-training programme at the national level, covering, among other areas, multiculturalism, equality, non-discrimination and gender sensitivity at a national level;

(d) Take into account the cultural and ethnic diversity of the communities served when selecting teachers. The teaching profession should include highly qualified teachers of people of African descent;

(e) Revise and develop specific curriculums and corresponding teaching materials that respect and recognize history, including the transatlantic slave trade. Such curriculums should be incorporated into formal and informal education at the early childhood, primary, secondary, post-secondary and adult education levels. People of African descent should have the opportunity to contribute to the development of such curriculums;

(f) Make history a compulsory subject at the primary and secondary educational levels, thereby giving children of African descent a connection with their past and a sense of cultural identity;

(g) Support the study and recognition and promote greater knowledge of and respect for the history of people of African descent. All students and teachers around the world should be taught about African and African diaspora history, culture and contribution to progress, the impact throughout the time of the movement and settlement of diverse populations, as well as the nature and effects of colonialism and the slave trade, emphasizing people of African descent as survivors or resisters, while also recognizing them as victims of human rights violations under international human rights law;

(h) Ensure that people of African descent are provided with adequate means to undertake research to speak about themselves and their role and contribution to the development of society, including industrialization;

(i) Ensure that national curriculums include the history of Africa before European contact in history education, in order to empower people of African descent about their past before the transatlantic slave trade. Similarly, history education should feature the liberation struggles during and after the colonial period. History education should also be about the development of world civilizations and should stress the contribution of people of African descent to global economic development, especially that of Europe. This will help the recognition of people of African descent as world actors;

(j) Promote a collective vision and strategy for improving the conditions of people of African descent by empowering them through the right to education. In this context, a database on information pertaining to the status of education of people of African descent should be developed;

(k) Ensure that curriculums adequately reflect the diversity and plurality of societies. Education should be culturally relevant for children and

young people of African descent, including in their own language where necessary;

(l) Take measures to reduce the school dropout rate and improve the underachievement of children of African descent with greater support and attention given to families;

(m) Adopt measures to increase the number of teachers of African descent working in educational institutions;

(n) Promote access to new technologies that would offer people of African descent, particularly women, children and young people, adequate resources for education, technological development and long-distance learning in local communities;

(o) Guarantee a smooth transition from early childhood to primary and secondary educational facilities without discriminatory competitive placement systems (for example, common entrance examinations);

(p) Provide sufficient budgetary resources and adopt measures, including affirmative action policies, at all levels of education for people of African descent, as a means for Governments to recognize the existence of structural discrimination and to combat it;

(q) Improve quality standards of education in public education systems;

(r) Develop truly inclusive classroom pedagogy for all, with culturally relevant curriculums, that celebrates the history and contribution of people of African descent;

(s) Institute national systematic monitoring and evaluation of the negative effects of racism and discrimination on the educational progress of children of African descent, including an analysis of the intersectional effects of social class, gender, religion and geography.

83. Civil society and people of African descent groups should continue with the development of a collective vision and strategy for improving the access to quality education for people of African descent by empowering them through the right to education.

84. In recognition of the contribution of the continent of Africa and people of African descent to the development, diversity and richness of world civilizations and cultures that constitute the common heritage of humankind, States should, in collaboration with relevant United Nations bodies and agencies, particularly the United Nations Educational, Scientific and Cultural Organization (UNESCO) and international donors:

(a) Promote and protect the culture, identity and tangible and intangible heritage of the continent of Africa and people of African descent, and keep, maintain and foster their mode of life and forms of organization, languages and religious expressions;

(b) Set up research programmes and circulate information to deconstruct the (mis)representation of people of African descent;

(c) Increase the visibility and recognition of the contributions of people of African descent and the continent of Africa to their respective societies and

to global development; promote research on past and present conditions of people of African descent and compile existing information on their contribution to their respective societies in order to foster the development of intercultural society from a democratic perspective, recognizing diversity and promoting knowledge and understanding of the causes and consequences of racism, racial discrimination and xenophobia;

(d) Support radio, television and Internet programmes about the history and cultures of people of African descent and promote more positive and inclusive representations that increase their visibility within society and challenge negative stereotypes and resultant discrimination;

(e) Celebrate the richness and creativity in all forms of artistic expressions by people of African descent;

(f) Consider proclaiming a national day in countries that do not yet have such a day, in order to celebrate the heritage, culture and contribution to the world of people of African descent;

(g) Put in place measures and procedures to prevent the media from perpetuating negative stereotypes.

85. People of African descent and African organizations and communities should establish a network to facilitate trade and cultural exchange, and promote interaction and collaboration.

86. Schools should adopt programmes to promote empowerment and help children to develop a positive perception of themselves and reinforce self-assurance and pride in their African backgrounds by demonstrating knowledge about their culture, history and contributions to society. Such measures will also improve their performance in schools.

87. People of African descent should therefore be consulted in the construction of new monuments and the development of memorial sites. Gender balance and diversity should be taken into consideration in the construction of new monuments and memorial sites.

88. States are recommended to collect data for use in reports submitted to the Committee on the Elimination of Racial Discrimination, illustrating the situation regarding racial discrimination in the country concerned.

89. In accordance with paragraph 92 of the Durban Programme of Action, States should also:

(a) Collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures that are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;

(b) Such statistical data should be disaggregated in accordance with domestic legislation. Any such information should, as appropriate, be collected with the explicit consent of the victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. This information must not be misused. The statistical data and information should be collected with

the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using information. The information should take into account economic and social indicators, including, where appropriate, health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health care, water, sanitation, energy and communications services, poverty and average disposable income in order to elaborate social and economic development policies with a view to closing the existing gaps in social and economic conditions;

(c) Adopt domestic legislation on combating racial discrimination. Data collection should result from explicit anti-discrimination laws that require data in order to measure discrimination and formulate, implement and monitor appropriate public policies, including special measures, pursuant to international human rights standards;

(d) Adopt laws regulating the collection and processing of ethnic and racial data that protect fundamental freedoms, including the right to privacy, provide the necessary safeguards for protecting data from misuse, such as racial profiling and negative monitoring, and ensure confidentiality of information, in accordance with relevant regional and international standards, in particular the Guidelines for the Regulation of Computerized Personal Data Files concerning the legality, fairness, accuracy and relevance of data, purpose-specification, interested-party access, non-discrimination, security, oversight and penalties. The normative framework should be approved beforehand and lay down the following minimum conditions: the person must give explicit consent; the data collection must serve the public interest, namely, the fight against racial discrimination; and the framework must be legally binding;

(e) Develop and identify quantitative and qualitative indicators for promoting and monitoring racial equality and non-discrimination, taking into account the methodology approved by the United Nations human rights treaty bodies.[4]

90. States, through their government bodies, as well as national statistics institutes, human rights institutions and organizations for racial equality, in conformity with their mandates, should:

(a) Include questions on the identities of people of African descent in all relevant data-collection and disaggregation activities;

(b) Conduct prior research and contextualize the data system so as to ensure that the data are culturally relevant and use appropriate terminology;

[4] See report of the Office of the United Nations High Commissioner for Human Rights on indicators for promoting and monitoring the implementation of human rights (HRI/MC/2008/3).

(c) **Produce qualitative data to complement quantitative information in order to enhance knowledge of the level of well-being of people of African descent;**

(d) **Produce data illustrating the situation of women and children of people of African descent;**

(e) **Contribute to formulating survey questions in order to gather information on perceptions of people of African descent;**

(f) **Respect and develop methods of self-identification and free consent and encourage participation by people of African descent in all stages of the process, from design to collecting data, formulating questions and analysing results;**

(g) **Sensitize and train staff of national statistics institutes responsible for collecting and disaggregating data, in human rights and the culture, history and linguistic profile of the communities about which they will be gathering information;**

(h) **Carry out pre- and post-census awareness campaigns on the importance of gathering disaggregated data and disseminate results through the media. Published data should be accompanied by a careful analysis so that the information can serve as a useful tool in devising public policies for racial advancement.**